

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**BRYAN S. MICK, Personal  
Representative of the Estate of  
PRINT ZUTAVERN, Deceased,**

**Plaintiff,**

**v.**

**DEPUTY BARRETT GIBBONS, in  
his individual and official  
capacities; DEPUTY LAWRENCE  
STUMP, in his individual and  
official capacities; SHERIFF DAN  
OSMOND, in his individual and  
official capacities; COUNTY OF  
CUSTER, a Nebraska political  
subdivision, d/b/a CUSTER  
COUNTY SHERIFF'S OFFICE; TRP.  
BRANDON WILKIE, in his  
individual capacity; and  
JOHN/JANE DOE, a training  
supervisor of the Nebraska State  
Patrol, in his/her individual and  
official capacities,**

**Defendants.**

**Case No. 4:22-cv-3025**

**MOTION TO QUASH SUBPOENA  
BY NEBRASKA STATE PATROL**

COMES NOW, the Nebraska State Patrol, a state agency and third-party recipient of a subpoena, pursuant to Fed. R. Civ. P. 45 and NECivR 45.1, and in support of its Motion to Quash Subpoena states the following:

1. On January 23, 2024, Plaintiff served a subpoena compelling the Nebraska State Patrol ("NSP") to participate in Fed. R. Civ. P. 30(b)(6) depositions on February 1, 2024.

2. NSP objects to the subpoena based on its sovereign immunity and

Eleventh Amendment immunity. In compliance with NECivR 45.1, NSP served a written objection to Plaintiff's subpoena.

3. By email dated January 30, 2024, Plaintiff's counsel confirmed that the deposition set for February 1, 2024 is postponed pending the Court's disposition of this Motion.

4. NSP previously served a written objection to a "Notice of 30(b)(6) Videoconferencing Deposition" (Filing No. 110). On January 19, 2024, a discovery dispute telephone conference was held before the Magistrate Judge as required by the Initial Progression Order (Filing No. 84). During telephone conference, the Magistrate Judge directed Plaintiff to serve a Fed. R. Civ. P. 45 subpoena if Plaintiff intended to compel NSP to attend a Rule 30(b)(6) deposition and waived any further obligation of the parties to confer prior to filing a motion to challenge the subpoena.

5. The Court should quash Plaintiff's subpoena and relieve NSP and its officers, employees, or agents from any obligation to participate in a Fed. R. Civ. P. 30(b)(6) depositions.

6. A brief and index of evidence compliant with NECivR 7.1 are filed contemporaneous to this Motion.

WHEREFORE, the Nebraska State Patrol respectfully requests the Court grants its Motion to Quash Subpoena and relieves it from any obligation therefrom and all such other relief as the Court deems just and equitable.

DATED this 30<sup>th</sup> day of January 2024.

**NEBRASKA STATE PATROL,  
A Third-Party,**

By: MICHAEL T. HILGERS, #24483  
*Nebraska Attorney General*

By: s/ Erik W. Fern  
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### CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2024, I electronically filed the foregoing document with the Clerk of the United States District Court for the District of Nebraska, causing notice of such filing to be served upon all parties registered on the CM/ECF system as follows:

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